

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS

OCEAN TOMO, LLC,

Plaintiff-Counter Defendant,

v.

JONATHAN BARNEY and  
PATENTRATINGS, LLC,

Defendant-Counter Plaintiffs.

No. 12 C 8450

Judge: Joan B. Gottschall

Magistrate: Judge Mary M. Rowland

**AGREED MOTION FOR: (1) LEAVE FOR ALL PARTIES TO FILE CERTAIN  
AMENDED SUBMISSIONS WITH REGARD TO MOTION FOR SUMMARY  
JUDGMENT; (2) AN ENLARGEMENT OF TIME FOR OCEAN TOMO TO FILE ITS  
REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT; AND (3) LEAVE  
FOR OCEAN TOMO TO FILE A REPLY BRIEF NOT IN EXCESS OF TWENTY-FIVE  
PAGES**

Plaintiff-Counter Defendant Ocean Tomo, LLC (“Ocean Tomo”) and Defendants-Counter-Plaintiffs Jonathan Barney (“Barney”) and PatentRatings, LLC (“PatentRatings”), through their undersigned counsel, for their Agreed Motion for: (1) Leave for All Parties to File Certain Amended Submissions With Regard to Motion for Summary Judgment; (2) an Enlargement of Time for Ocean Tomo to File its Reply in Support of Motion for Summary Judgment; and (3) Leave for Ocean Tomo to File a Reply Brief Not in Excess of Twenty-Five Pages, hereby state as follows:

1. On January 30, 2015, Ocean Tomo filed its Motion for Summary Judgment of Invalidity Under 35 U.S.C. § 101 (the “Motion”). [Docket No. 94.] In support of the Motion, Ocean Tomo filed, *inter alia*, the Declaration of Dr. Patrick Thomas (the “Thomas Declaration”). [Docket No. 97-1.]

2. On May 11, 2015, Barney and PatentRatings filed, among other documents, their forty-eight (48) page Response to the Motion (“Response”), a Motion for Leave to File Excess

Pages (“Motion for Leave”), a Rule 56.1(b)(3)(B) Statement of Additional Facts (the “Rule 56.1(b)(3)(B) Statement”), and the Declaration of Jonathan Barney (the “Barney Declaration”). [Docket Nos. 111, 113, 115, 116-2.] Ocean Tomo had no objection to the Motion for Leave, and that motion has already been granted by the Court. [Docket No. 123.]

3. Pursuant to the briefing schedule previously entered by the Court, Ocean Tomo has only fourteen (14) days in which to file its Reply in support of the Motion. Given the length of the Response, Ocean Tomo requests an additional fourteen (14) days, up to and including June 8, 2015, to file its Reply. Additionally, Ocean Tomo requests leave to file a twenty-five (25) page Reply in order to allow Ocean Tomo the opportunity to address all of the arguments contained in the Response.

4. Counsel for Ocean Tomo reached out to counsel for Barney and PatentRatings on May 14, 2015 and confirmed that Barney and PatentRatings have no objection to Ocean Tomo’s requests for an enlargement of Ocean Tomo’s time to file its Reply and leave to file a brief not to exceed twenty-five (25) pages, on or before June 8, 2015.

5. The parties also seek to correct a number of minor errors contained in their respective submissions in support of, and in opposition to, the Motion.

6. Ocean Tomo seeks leave to file an amended version of the Thomas Declaration correcting two typographical errors as reflected in the attached redline attached hereto as **Exhibit A**.

7. Barney and PatentRatings seek leave to file amended versions of their Response, the Rule 56.1(b)(3)(B) Statement, and the Barney Declaration correcting certain errors as reflected in the redlines attached hereto as **Exhibit B**, **Exhibit C**, and **Exhibit D**, respectively.<sup>1</sup>

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<sup>1</sup> As Barney and PatentRatings did in their original filings, Exhibits B, C, and D have been redacted to remove certain information that Barney and PatentRatings sought leave to file under seal. As noted above, the Court has granted such leave. In the event that the Court allows this

8. None of the parties object to the others' proposed amended submissions.

9. The requested relief will not prejudice any party or materially delay the resolution of the Motion.

WHEREFORE, Ocean Tomo, Barney, and PatentRatings respectfully request that this Court grant this Agreed Motion and enter an Order providing that: (a) the time for Ocean Tomo to file its Reply in support of its Motion for Summary Judgment is extended to June 8, 2015; (b) Ocean Tomo is granted leave to file a Reply brief not to exceed twenty-five (25) pages; (c) Ocean Tomo is granted leave to file an Amended Thomas Declaration [Docket No. 97-1,] correcting the typographical errors reflected in **Exhibit A** hereto; (d) Barney and PatentRatings are granted leave to file publicly an amended Response to the Motion [Docket No. 113,] and to file under seal an unredacted amended Response to the Motion [Docket No. 119], both containing the changes reflected in **Exhibit B** hereto; (e) Barney and PatentRatings are granted leave to file publicly an amended Rule 56.1(b)(3)(B) Statement [Docket No. 115,] and to file under seal an unredacted Rule 56.1(b)(3)(B) Statement [Docket No. 120], both containing the changes reflected in **Exhibit C** hereto; (f) Barney and PatentRatings are granted leave to file publicly an amended Barney Declaration [Docket No. 116-1], and to file under seal an unredacted Barney Declaration [Docket No. 121-1], both containing the changes reflected in **Exhibit D** hereto; and (g) granting any further relief the Court deems appropriate.

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motion, Barney and PatentRatings will file Exhibits B, C, and D publicly, and file unredacted versions of Exhibits B, C, and D under seal.

Respectfully submitted,

JONATHAN BARNEY and  
PATENTRATINGS, LLC

OCEAN TOMO, LLC

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